U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[redacted]

PUBLIC COPY

File: EAC-00-137-52076 Office: Vermont Service Center Date: MAR - 7 2001

IN RE: Petitioner:
Beneficiary: [redacted]

Petition: Petition for a Nonimmigrant Worker Pursuant to § 101(a)(15)(P)(i) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(P)(i)

IN BEHALF OF PETITIONER: Self-represented

[redacted]

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of $110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a boxing management and training organization. The beneficiary is a professional boxer. The petitioner filed a Form I-129 (Petition for a Nonimmigrant Worker) seeking classification of the beneficiary under section 101(a)(15)(P)(i) of the Immigration and Nationality Act (the "Act"). The petitioner seeks to employ the beneficiary temporarily in the United States as a boxer for an unspecified period of time.

In the decision, the director conceded that the beneficiary had the appropriate standing to qualify for P-1 classification, but denied the petition finding that the one fighting bout discussed by the petitioner had been cancelled and the petitioner failed to submit a contract of employment.

On appeal, a representative of the petitioner stated that the beneficiary's first planned bout was cancelled and explained that this was a common occurrence in the sport of boxing. It was further stated that the beneficiary has great potential and needs to train in the USA under the petitioner's management in order to become a world champion.

Under section 101(a)(15)(P)(i) of the Act, an alien having a foreign residence which he or she has no intention of abandoning may be authorized to come to the United States temporarily to perform services for an employer or sponsor. Section 214(c)(4)(A) of the Act, 8 U.S.C. 1184(c)(4)(A), provides that section 101(a)(15)(P)(i) of the Act applies to an alien who:

> (i) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance, and
>
> (ii) seeks to enter the United States temporarily and solely for the purpose of performing as such an athlete with respect to a specific athletic competition.

8 C.F.R. 214.2(p)(1)(ii) provides for P-1 classification of an alien:

> (1) To perform at specific athletic competition as an athlete, individually or as part of a group or team, at an internationally recognized level or performance...

8 C.F.R. 214.2(p)(4)(ii)(B) requires that a petition for an internationally recognized athlete or athletic team must include:

> (1) A tendered contract with a major United States sports league or team, or a tendered contract in an individual sport commensurate with international recognition in that sport, if such contracts are normally executed in the sport....

The definition of a contract is at 8 C.F.R. 214.2(p)(3),

> *Contract* means the written agreement between the petitioner and the beneficiary(ies) that explains the terms and conditions of employment. The contract shall describe the services to be performed, and specify the wages, hours of work, working conditions, and any fringe benefits.

An alien athlete may be granted P-1 classification to perform at a single competition or event, such as the bout discussed by the petitioner. An alien may also be granted P-1 classification for an athletic season or tour appropriate to the sport. See 8 C.F.R. 214.2(p)(3). The petitioner bears the burden to explain the circumstances of the proposed employment including the duration and an itinerary of planned events. The petitioner must also submit a copy of the employment contract, if a contract has been executed.

In this case, the petitioner indicated on the petition form that the beneficiary would be employed as a boxer at a wage of $600 per week. The petitioner did not state the length of time the services of the beneficiary were being requested in the block provided in Part 5 of the petition form. Nor did the petitioner submit a copy of an employment contract or explain the terms and duration of the proposed employment. Merely stating an intent to "manage" a professional boxer for an unspecified period of time is not sufficient to satisfy the above requirements.

It must be concluded that the petitioner has failed to overcome the director's objection. It is further noted for the record that the petitioner failed to submit a consultation from a United States labor organization as required. The denial of this petition is without prejudice to the filing of a new petition with the required supporting documentation and fee.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. Here, the petitioner has not met that burden.

ORDER: The appeal is dismissed.